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**VIA: Electronic Filing**

April 21, 2009

William Walsh, Clerk  
U.S. District Court  
M.L. King Jr. Federal Bldg. &  
U.S. Courthouse  
50 Walnut Street  
Newark, New Jersey 07102

**Re: Masha Allen v. Families thru International Adoption, Inc. v.  
Adagio Health, Inc.**

**Civil Action No: 08cv4614(JHR)**

**Claim No: 87870**

**DOL: In or about July, 1998**

**Our File No: 86650**

Dear Mr. Walsh:

Our firm represents third-party defendant, Adagio Health, Inc. in connection with the above referenced matter. Attached herewith for filing is the Answer to Third-Party Complaint, Affirmative Defenses, and Jury Demand of third-party defendant, Adagio Health, Inc. Kindly file the document, and forward to me via e-mail confirmation of the filing. Thank you.

Very truly yours,

WEINER LESNIAK LLP

By: 

Alan J. Baratz

A Member of the Firm

AJB:tb

cc: Donald C. Cofsky, Esq.  
Terry Sheerin, PMA Ins.  
Jeremy Solomon, Lit. Coord.

id/86650 clerk us district court filing ltr ajb

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Attorneys for third party defendant, Adagio Health, Inc.  
Our File No.: 86630 F:\WP-DATA\INS\MATTERS\86630 answer ajb.doc

MASHA ALLEN, by her Parent and Guardian,  
FAITH ALLEN,  
Johnstown, PA 15907

Plaintiff(s),

vs.

FAMILIES THRU INTERNATIONAL  
ADOPTION, INC.,  
400 Bentee Wes Court  
Evansville, IN 47715

And

CHILD PROMISES, INC. (formerly known as  
Reaching Out Through International Adoption,  
Inc.  
c/o Joseph P. Hudrick, Registered Agent  
4 Ridge Road  
Southampton, NJ 08088

And

JEANNENE SMITH  
312 South Lincoln Avenue  
Cherry Hill, NJ 08002

Defendants

And

FRIENDS THRU INTERNATIONAL  
ADOPTION, INC.

Third Party Plaintiff

vs.

ADAGIO HEALTH, INC. (formerly known as  
Family Health Council, Inc. and trading as  
Family Adoption Center)  
960 Penn Avenue, Suite 600  
Pittsburgh, PA 15222

Third Party Defendant

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

CIVIL ACTION NO.: 08cv4614(JHR)

Civil Action

**ANSWER TO  
THIRD PARTY COMPLAINT,  
AFFIRMATIVE DEFENSES,  
JURY DEMAND AND  
CERTIFICATION**

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Third party defendant, Adagio Health, Inc., a corporation of the State of Pennsylvania, formerly known as, Family Health Council, Inc. t/a Family Adoption Center, by way of Answer to the Third Party Complaint of defendant/third party plaintiff, Friends Through International Adoption, Inc., says:

1. At this time, third party defendant has no knowledge or information sufficient to form a belief regarding the truth of the allegations of paragraph 1 of the Third Party Complaint and leaves third party plaintiff to its proofs.

2. Third party defendant admits the allegations of paragraph 2 of the Third Party Complaint.

3. Third party defendant admits the allegations of paragraph 3 of the Third Party Complaint.

4. Third party defendant admits the allegations of paragraph 4 of the Third Party Complaint.

5. Third party defendant admits the allegations of paragraph 5 of the Third Party Complaint.

6. Third party defendant denies the allegations of paragraph 6 of the Third Party Complaint to the extent that some are construed to imply that it acted negligently, carelessly, recklessly or improperly in any respect, and otherwise at this point in time has no knowledge or information sufficient to form a belief regarding the truth of the allegations of paragraph 6 of the Third Party Complaint and leaves third party plaintiff to its proofs.

7. Third party defendant denies the allegations of paragraph 7 of the Third Party Complaint to the extent that some are construed to imply that it acted negligently, carelessly, recklessly or improperly in any respect, and otherwise at this point in time has no knowledge or information sufficient to form a belief regarding the truth of the

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allegations of paragraph 7 of the Third Party Complaint and leaves third party plaintiff to its proofs.

8. Third party defendant denies the allegations of paragraph 8 of the Third Party Complaint to the extent that some are construed to imply that it acted negligently, carelessly, recklessly or improperly in any respect, and otherwise at this point in time has no knowledge or information sufficient to form a belief regarding the truth of the allegations of paragraph 8 of the Third Party Complaint and leaves third party plaintiff to its proofs.

9. Third party defendant denies the allegations of paragraph 9 of the Third Party Complaint to the extent that some are construed to imply that it acted negligently, carelessly, recklessly or improperly in any respect, and otherwise at this point in time has no knowledge or information sufficient to form a belief regarding the truth of the allegations of paragraph 9 of the Third Party Complaint and leaves third party plaintiff to its proofs.

10. Third party defendant denies the allegations of paragraph 10 of the Third Party Complaint to the extent that some are construed to imply that it acted negligently, carelessly, recklessly or improperly in any respect, and otherwise at this point in time has no knowledge or information sufficient to form a belief regarding the truth of the allegations of paragraph 10 of the Third Party Complaint and leaves third party plaintiff to its proofs.

11. Third party defendant denies the allegations of paragraph 11 of the Third Party Complaint.

12. Third party defendant denies the allegations of paragraph 12 of the Third Party Complaint to the extent that some are construed to imply that it acted negligently, carelessly, recklessly or improperly in any respect, and otherwise at this point in time

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has no knowledge or information sufficient to form a belief regarding the truth of the allegations of paragraph 12 of the Third Party Complaint and leaves third party plaintiff to its proofs.

13. At this time, third party defendant has no knowledge or information sufficient to form a belief regarding the truth of the allegations of paragraph 13 of the Third Party Complaint and leaves third party plaintiff to its proofs, and furthermore makes no response to these allegations in that they do not apply to the third party defendant.

14. Third party defendant denies the allegations of paragraph 14 of the Third Party Complaint.

15. Third party defendant denies the allegations of paragraph 15 of the Third Party Complaint to the extent that some are construed to imply that it acted negligently, carelessly, recklessly or improperly in any respect, and otherwise at this point in time has no knowledge or information sufficient to form a belief regarding the truth of the allegations of paragraph 15 of the Third Party Complaint and leaves third party plaintiff to its proofs.

16. Third party defendant denies the allegations of paragraph 16 of the Third Party Complaint.

17. Third party defendant denies the allegations of paragraph 17 of the Third Party Complaint.

WHEREFORE, third party defendant, Adagio Health, Inc. demands judgment dismissing the Third Party Complaint of defendant/third party plaintiff, Friends Thru International Adoption, Inc. with prejudice.

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**AFFIRMATIVE DEFENSES**

1. Third party plaintiff fails to state a claim against Adagio Health, Inc. for which leave can be granted.

2. The Third Party Complaint is barred by the applicable Statute of Limitations and/or Rules of Mandatory Joinder, including the entire Dontrovery Doctrine.

3. Damages, if any, sustained by third party plaintiff were caused or attributed to by third party plaintiff and third parties over whom the third party defendant had no authority.

4. Adagio Health, Inc., a licensed non-profit charitable organization, is not liable on the Third Party Complaint as it is entitled to protection of charitable immunity under New Jersey Statutes as made and provided.

5. Adagio Health, Inc. never approved the adopting plan for the adopting father, Matthew Mancuso.

6. Adagio Health, Inc. never placed the child with the adopting father, Matthew Mancuso.

7. Adagio Health, Inc. never approved nor forwarded any dossier of the adopting father, Matthew Mancuso, to Russia for an adoptive match.

8. Adagio Health, Inc. had no information or knowledge that the adopting father, Matthew Mancuso, ever had a child placed with him for purposes of adoption, nor did the third party defendant ever participate in any such adoption.

9. Third party defendant was not guilty of any negligence which was the proximate cause of the alleged injuries and/or damages.

10. Third party defendant did not make or breach any warranty, expressed or implied, or any contract to the third party plaintiff or any other parties.

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11. Third party defendant acted reasonably under the then existing circumstances.

12. Third party defendant had no and undertook no duty to third party plaintiff.

13. Negligence, if any, on the part of the third party defendant was not the proximate cause of any injuries which may have been sustained by plaintiff or third party defendant.

14. Third party plaintiff's claims are barred by the doctrine and/or defense of intervening and/or superseding cause.

15. Third party defendant, Adagio Health, Inc. hereby reserves the right to interpose such other defenses and objections as continuing investigation and discovery may disclose to be applicable.

#### JURY DEMAND

The within third party defendant demands trial by jury.

#### CERTIFICATION

I certify that the within pleading was served within the time period allowed under the Federal Rules of Civil Procedure. I certify that there is no other action pending in this or any other Court or in arbitration between the parties.

WEINER LESNIAK LLP  
Attorneys for third party defendant,  
Adagio Health, Inc.

By   
Alan J. Baratz, Esq.

Dated: 4/21/09

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